

SENATE BILL No. 456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-17; IC 36-8-2-13.

Synopsis: Local enforcement of environmental laws. Requires the department of environmental management to enter into contracts with local air pollution agencies to carry out an air pollution program for the department. Extends the powers granted to Marion County to establish a local air pollution permit program to counties, cities, and towns outside Marion County. Authorizes a local permit program to comply with more restrictive local ordinances to further the expressed purposes of air pollution control laws. Permits a city or town to regulate the introduction of any substance or odor into the air or any generation of sound within four miles outside its corporate boundaries. Makes related changes.

Effective: July 1, 2009.

**Deig, Breaux, Lanane, Skinner,
Randolph**

January 14, 2009, read first time and referred to Committee on Energy and Environmental Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 456

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-17-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The commissioner shall assist and cooperate with other groups interested in and affected by air pollution.

(b) The commissioner ~~may~~ **shall** do the following:

(1) Advise, consult, and cooperate with:

(A) other state agencies;

(B) towns, cities, and counties;

(C) industries;

(D) other states;

(E) the federal government; and

(F) affected groups;

in the prevention and control of new and existing air contamination sources within Indiana.

(2) Encourage and conduct studies, investigations, and research relating to the following:

(A) Air pollution.



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- 1 (B) The causes, effects, prevention, control, and abatement of
 2 air pollution.
 3 (3) Collect and disseminate information relating to the following:
 4 (A) Air pollution.
 5 (B) The prevention and control of air pollution.
 6 (4) Encourage voluntary cooperation by persons, towns, cities,
 7 and counties or other affected groups in restoring and preserving
 8 a reasonable degree of purity of air within Indiana.
 9 **(5) Upon request, provide technical assistance to towns, cities,**
 10 **or counties requesting technical assistance for the furtherance**
 11 **of air pollution control.**
 12 ~~(5)~~ **(6)** Encourage authorized air pollution agencies of towns,
 13 cities, and counties to handle air pollution problems within their
 14 respective jurisdictions to the greatest extent possible.
 15 ~~(6) Upon request, provide technical assistance to towns, cities, or~~
 16 ~~counties requesting technical assistance for the furtherance of air~~
 17 ~~pollution control.~~
 18 **(7) Enter into a contractual agreement with a local air**
 19 **pollution control agency established under IC 13-17-12-1**
 20 **whenever the local air pollution control agency is willing to**
 21 **enter into the contract. The contract must require the**
 22 **department to do the following:**
 23 (A) Advise, consult, and cooperate with the local air
 24 pollution control agency.
 25 (B) Provide technical assistance to the local air pollution
 26 control agency.
 27 (C) Authorize the local air pollution control agency to
 28 undertake air pollution control activities, including:
 29 (i) regional ambient air quality monitoring; and
 30 (ii) within the local air pollution control agency's
 31 jurisdiction, issue operating permits and operating
 32 permit revisions, perform compliance inspections,
 33 respond to complaints and emergencies, and initiate
 34 enforcement actions on behalf the department.
 35 (D) Authorize, as an alternative to actions described in
 36 clause (C), the local air pollution control agency to:
 37 (i) issue operating permits and operating permit
 38 revisions;
 39 (ii) perform compliance inspections;
 40 (iii) respond to complaints and emergencies; and
 41 (iv) initiate enforcement actions;
 42 as authorized by local ordinances that are consistent with

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or more restrictive than the air pollution control laws.

(E) Provide, from money available to the department to carry out the air pollution control laws, fair monetary compensation to the local air pollution control agency for the air pollution control work performed on behalf of the department.

(F) Provide that the source of the monetary compensation provided to the local air pollution control agency may originate from:

(i) United States Environmental Protection Agency federal grant funding for the purpose of air pollution control program support activities funded under Section 105 of the federal Clean Air Act (42 U.S.C. 7405), as further described in Section 66.001 of the Catalog of Federal Domestic Assistance;

(ii) United States Environmental Protection Agency federal grant funding for the purpose of PM2.5 air monitoring activities funded under Section 103 of the federal Clean Air Act (42 U.S.C. 7403), as further described in Section 66.034 of the Catalog of Federal Domestic Assistance;

(iii) annual operating fees established by 326 IAC 2 or its successor;

(iv) the environmental management special fund established by IC 13-14-12; and

(v) other revenue sources as approved by the governor and the budget agency.

(G) Provide that the monetary compensation provided to the local air pollution control agency must be at least sufficient to cover the staffing and operating costs the local air pollution control agency incurred for air pollution control work performed on behalf of the department.

(H) Provide that the monetary compensation provided to local air pollution control agencies shall be tied to the Consumer Price Index and shall be reviewed and adjusted within thirty (30) days after the release of the January CPI-U issued by the United States Bureau of Labor Statistics.

(I) Provide that if a local air pollution control agency applies for grant funding from the United States Environmental Protection Agency for the purposes of activities described in clause (F)(i) or (F)(ii), the

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1 commissioner shall approve and facilitate the grant
 2 funding agreement between the United States
 3 Environmental Protection Agency and the local air
 4 pollution control agency.

5 ~~(7)~~ (8) Represent the state in all matters pertaining to plans,
 6 procedures, or negotiations for interstate compacts in relation to
 7 the control of air pollution.

8 ~~(8)~~ (9) Accept and administer grants or other money or gifts for
 9 the purpose of carrying out any of the functions of air pollution
 10 control laws.

11 SECTION 2. IC 13-17-12-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Air pollution
 13 control laws do not prevent towns, cities, or counties from:

14 (1) enforcing local air pollution ordinances consistent with air
 15 pollution control laws; or

16 (2) adopting or enforcing more restrictive ordinances to further
 17 the expressed purposes of air pollution control laws.

18 (b) A county, city, or town that adopts an ordinance described
 19 in subsection (a) must establish or designate an agency to act as an
 20 air pollution control agency to:

21 (1) enforce ordinances adopted under this section; and

22 (2) undertake air pollution control efforts on behalf of the
 23 department of environmental management under a contract
 24 entered into under IC 13-17-3-9.

25 The agency may be the agency established to administer a
 26 cooperative air pollution control program under section 3 of this
 27 chapter.

28 SECTION 3. IC 13-17-12-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. An air pollution
 30 control agency that has entered into a contract described in
 31 IC 13-7-3-9(b)(7) shall submit annual reports as requested by the
 32 department.

33 SECTION 4. IC 13-17-12-6 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A county, ~~having a~~
 35 ~~consolidated~~ city, or town (except an excluded city in a county
 36 having a consolidated city) may subject to department approval,
 37 establish an air permit program that complies with:

38 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as
 39 amended by the Clean Air Act Amendments of 1990 (P.L.
 40 101-549);

41 (2) regulations implementing Title V of the Clean Air Act
 42 Amendments of 1990 (40 CFR 70 et seq.); and

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1 (3) rules adopted by the board; **and**
2 **(4) any more restrictive ordinances adopted by the county,**
3 **city, or town to further the expressed purposes of the air**
4 **pollution control laws.**

5 SECTION 5. IC 36-8-2-13 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. A municipality may
7 exercise powers granted by sections 4, 5, ~~and~~ 6, **and 8** of this chapter
8 in areas within four (4) miles outside its corporate boundaries.

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